

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

DAVID SIDOO, *et al.*,

Defendants.

Crim. No. 19-cr-10080-NMG-MPK

JOINT INITIAL STATUS REPORT

Pursuant to Local Rule 116.5(a), the parties hereby file the following status report prepared in connection with the Initial Status Conference that is currently scheduled for June 3, 2019. Defendants believe an in-person status conference on June 3 is necessary to address certain discovery-related issues, including the Government's policy regarding FBI reports. Defendants suggest that out-of-state counsel be allowed to attend that hearing telephonically if they so choose.

(1) Automatic Discovery & Pending Discovery Requests

The Government mailed automatic discovery in this case to Sidoo on or about April 25, 2019, the Colburn defendants on or about April 30, 2019, and the remaining defendants on or about May 17, 2019. This discovery was provided on a hard drive as well as an accompanying DVD. The Government provided Defendants with indexes where required and multiple databases in load-ready forms. Defendants are currently reviewing this discovery. The Defendants have requested that the Government provide more comprehensive indices as required by Local Rule 116.10 and the parties are conferring regarding this request.

(2) Additional Discovery

The Government anticipates providing significant additional discovery as it comes in and is processed by the Government. This includes a third production that will primarily – but not exclusively – consist of records that will be provided to all Defendants on or about May 30, 2019.

After this, the Government anticipates producing discovery on a rolling basis approximately once each month. The Government is reviewing discovery as it is produced to determine whether any such discovery, with respect to the charged defendants, is information that would tend directly to negate the defendant's guilt concerning any count in the indictment, and will produce said discovery. Defendants request that the Government be required to certify, by a date to be set by the Court, that it has reviewed all potential sources of material required to be produced under Fed. R. Crim. P. 16, Local Rule 116.2(b)(1) and *Brady vs. Maryland* and has provided Defendants with all such material. The Government objects to this request, noting that in complex case such as this, where new evidence is constantly being generated, such a "certification" is unworkable. Further, the government is aware of its obligations and will produce discovery – including *Brady* – as it is reviewed and processed by counsel.

(3) Timing of Additional Discovery Requests

In light of the large volume of discovery produced by the Government to date and additional materials that are forthcoming, the parties agree to hold in abeyance the deadlines associated with the discovery motion and bill of particulars provisions of Local Rule 116.3 until at least the next status conference, at which time the parties will endeavor to propose deadlines for discovery motions or request more time.

The parties agree that in the interim, any Defendant may confer and exchange letter requests with the Government for additional discovery pursuant to the non-deadline provisions of

Local Rule 116.3 (e.g., Local Rule 116.3(h) re consolidation of written requests and motions in multi-defendant cases). Defendants also request the ability to file requests for bills of particulars if they so choose before the schedule the parties will endeavor to set at the next status conference in October. The Government opposes this request.

(4) Protective Orders

There is a protective order currently in place. Should a party seek a protective order or modification of any existing protective order, a motion will be filed with the Court to address any issue.

(5) Pretrial Motions

The parties request that the Court set a schedule for defendants to file pretrial motions under Fed. R. Crim. P. 12(b) after Defendants have had an opportunity to review all discovery provided by the Government. The parties will endeavor to provide a proposed briefing schedule to the Court ahead of the next status conference.

With respect to the motion to dismiss filed by defendants Amy and Gregory Colburn (ECF # 341), all parties agree and request that resolution of the motion be stayed until the other defendants have had an opportunity to review the discovery materials from the Government in order to determine whether to join the motion filed by the Colburn defendants or to file their own separate or consolidated motions. The Government also requests that its response deadline be continued until after all Defendants have filed any additional motions to dismiss.

(6) Expert Discovery

The Government agrees to provide any expert witness disclosures 90 days prior to trial. The Defendants agree to provide any expert witness disclosures 30 days prior to trial.

Defendants also request that the Government agree to disclose, 6 months before trial, the names and general subject-matters of its experts. Further, defendants believe that the final expert disclosures should be similar in scope to those required in civil actions. The Government opposes this request, believing that there is no need to deviate from the standard time frames here with respect to expert discovery.

(7) Speedy Trial Act

The parties have conferred and ask that the Court exclude the period of time from the time of the initial status conference on June 3, 2019 to the time of the next status conference, under 18 U.S.C. § 3161(h)(7)(A), to permit the Defendants time to review discovery and confer with their respective counsel. The ends of justice served by this exclusion outweigh the interests of the public and the defendant in a speedy trial.

(8) Interim Status Conference

The parties request an interim status conference on or about October 2, 2019, or at a time thereafter that is convenient to the Court.

(9) Pretrial Restriction on Contact with Witnesses

The Court has imposed a condition of release prohibiting contact between the Defendants and potential witnesses (except in counsel's presence). Defendants believe that this restriction remains vague and impracticable because, to date, the Government has not identified the persons to whom it believes this restriction should apply. The parties agree that the Government will provide a list of potential witnesses to defense counsel by June 30, 2019, with the list being supplemented on a rolling basis thereafter if the Government identifies additional witnesses or co-conspirators. If any of the Defendants should challenge the inclusion of any particular

individual on the list, Defendants shall file a motion (under seal if appropriate) explaining why such contact is necessary.

Respectfully Submitted,

**ANDREW E. LELLING
UNITED STATES ATTORNEY**

/s/ Eric S. Rosen

Eric S. Rosen
Justin D. O'Connell
Leslie A. Wright
Assistant United States Attorneys
John Joseph Moakley Courthouse
One Courthouse Way, Suite 9200
Boston, Massachusetts 02210
Tel: (617)-748-3100
Eric.Rosen@usdoj.gov
Justin.O'Connell@usdoj.gov
Leslie.Wright@usdoj.gov

GAMAL ABDELAZIZ

By his attorneys,

/s/ Brian T. Kelly

Brian T. Kelly (BBO # 549556)
Joshua C. Sharp (BBO # 681439)
Nixon Peabody LLP
53 State Street
Boston, MA 02109
Tel: (617) 345-1000
bkelly@nixonpeabody.com
jsharp@nixonpeabody.com

DIANE BLAKE AND TODD BLAKE

By their attorneys,

/s/ David E. Meier

David E. Meier (BBO #341710)
Todd & Weld LLP

One Federal Street, 27th Floor
Boston, MA 02110
Tel: (617) 624-4732
dmeier@toddweld.com

Stephen H. Sutro, Esq.
Duane Morris LLP
One Market Plaza, Suite 2200
San Francisco, CA 94105-1127
Tel: (415) 957-3008
shsutro@duanemorris.com

I-HSIN “JOEY” CHEN

By his attorneys,

/s/ Reuben Camper Cahn
Reuben Camper Cahn (*pro hac vice*)
Jennifer L. Keller (*pro hac vice*)
Chase A. Scolnick (*pro hac vice*)
KELLER/ANDERLE LLP
18300 Von Karman Avenue, Suite 930
Irvine, CA 92612
Tel: (949) 476-8700
rcahn@kelleranderle.com

AMY COLBURN AND GREGORY COLBURN

By their attorneys,

/s/ David S. Schumacher
David S. Schumacher (BBO # 647917)
HOOPER, LUNDY & BOOKMAN, P.C.
470 Atlantic Avenue, Suite 1201
Boston, MA 02210
(617) 532-2700
dschumacher@health-law.com

Patric Hooper (*Pro Hac Vice*)
HOOPER, LUNDY & BOOKMAN, P.C.
1875 Century Park East, Suite 1600
Los Angeles, California 90067-2517
(310) 551-8111
phooper@health-law.com

Jordan Kearney (*Pro Hac Vice*)

HOOPER, LUNDY & BOOKMAN, P.C.
575 Market Street, Suite 2300
San Francisco, CA 94105
(415) 875-8500
jkearney@health-law.com

MOSSIMO GIANNULLI
By his attorneys,

/s/ Sean M Berkowitz
Sean M. Berkowitz (*admitted pro hac vice*)
LATHAM & WATKINS LLP
330 North Wabash Avenue, Suite 2800
Chicago, IL 60611
Tel: (312) 777-7016
sean.berkowitz@lw.com

William J. Trach (BBO #661401)
LATHAM & WATKINS LLP
200 Clarendon Street
Boston, MA 02116
Telephone: (617) 948-6000
william.trach@lw.com

Perry J. Viscounty (*admitted pro hac vice*)
LATHAM & WATKINS LLP
650 Town Center Drive, 20th Floor
Costa Mesa, CA 92626
Tel: (714) 540-1235
perry.viscounty@lw.com

ELIZABETH HENRIQUEZ

By her attorneys,

/s/ Aaron M. Katz
Aaron M. Katz (BBO # 662457)
Ropes & Gray LLP
Prudential Tower
800 Boylston St.
Boston, MA 02199-3600
Tel: (617) 951-7117
aaron.katz@ropesgray.com

Laura G. Hoey (*pro hac vice*)

Ropes & Gray LLP
191 North Wacker Drive, 32nd Floor
Chicago, IL 60606
Tel: (312) 845-1200
laura.hoey@ropesgray.com

Colleen A. Conry (*pro hac vice*)
Ropes & Gray LLP
2099 Pennsylvania Avenue, N.W.
Washington, DC 20006-6807
Tel: (202) 508-4600
colleen.conry@ropesgray.com

DOUGLAS HODGE

By his attorneys,

/s/ Joan McPhee
Brien T. O'Connor (BBO # 546767)
Joan McPhee (BBO # 547869)
Ropes & Gray - MA
Prudential Tower
800 Boylston Street
Boston, MA 02199-3600
617-951-7385
boconnor@ropesgray.com
jmcphée@ropesgray.com

Miranda Hooker (BBO # 661569)
Pepper Hamilton LLP
125 High Street
19th Floor, High Street Tower
Boston, MA 02110
617-204-5160
hookerm@pepperlaw.com

MANUEL HENRIQUEZ

By his attorneys,

/s/ Walter Brown
Walter Brown (*pro hac vice*)
Orrick, Herrington & Sutcliffe, LLP
405 Howard Street
San Francisco, CA 94105
Tel: (415) 773-5700
wbrown@orrick.com

MICHELLE JANAVS

By her attorneys,

/s/ John L. Littrell

Thomas H. Bienert, Jr. (*pro hac vice*)
John Littrell (*pro hac vice*)
Bienert I. Katzman PC
903 Calle Amanecer, Suite 350
San Clemente, CA 92673
Tel: (949) 369-3700
tbienert@bienertkatzman.com
jlittrell@bienertkatzman.com

Jonathan L. Kotlier (BBO # 545491)
Nutter, McCennen & Fish, LLP
155 Seaport Boulevard
Boston, MA 02210-2604
Tel: 617-439-2000
jkotlier@nutter.com

ELISABETH KIMMEL

By her attorneys,

/s/ Eóin P. Beirne

R. Robert Popeo (BBO # 403360)
Mark E. Robinson (BBO # 423080)
Eóin P. Beirne (BBO # 660885)
MINTZ, LEVIN, COHN, FERRIS, GLOVSKY
AND POPEO, P.C.
One Financial Center
Boston, MA 02111
(617) 348-1707 (telephone)
(617) 542-2241 (fax)
rpopo@mintz.com
mrobinson@mintz.com
ebeirne@mintz.com

LORI LOUGHLIN

By her attorneys,

/s/ William J. Trach

William J. Trach (BBO #661401)
LATHAM & WATKINS LLP
200 Clarendon Street
Boston, MA 02116

Tel: (617) 948-6000
wiliam.trach@lw.com

Sean M. Berkowitz (*admitted pro hac vice*)
LATHAM & WATKINS LLP
330 North Wabash Avenue, Suite 2800
Chicago, IL 60611
Tel: (312) 777-7016
sean.berkowitz@lw.com

Perry J. Viscounty (*admitted pro hac vice*)
LATHAM & WATKINS LLP
650 Town Center Drive, 20th Floor
Costa Mesa, CA 92626
Tel: (714) 540-1235
perry.viscounty@lw.com

WILLIAM McGLASHAN, JR.

By his attorneys,

/s/ Jack W. Pirozzolo

Jack W. Pirozzolo (BBO #564879)
jpirozzolo@sidley.com
SIDLEY AUSTIN LLP
60 State Street, 36th Floor
Boston, MA 02109
Tel: (617) 223-0304

Joan M. Loughnane (*pro hac vice*)
jloughnane@sidley.com
SIDLEY AUSTIN LLP
787 7th Avenue
New York, NY 10019
Tel: (212) 839-5567

/s/ John C. Hueston

John C. Hueston (*pro hac vice*)
Marshall Camp (*pro hac vice*)
HUESTON HENNIGAN LLP
523 W. 6th Street, Suite 400
Los Angeles, CA 90014
Tel: (213) 788-4340
jhueston@hueston.com
mcamp@hueston.com

MARCI PALATELLA

By her attorneys,

/s/ Michael K. Loucks

Michael K. Loucks (BBO # 305520)
Skadden, Arps, Slate, Meagher & Flom LLP
500 Boylston Street
Boston, MA 02116
617-573-4840
michael.loucks@skadden.com

Jack P. DiCanio (*pro hac vice*)

Allen J. Ruby (*pro hac vice*)
Skadden, Arps, Slate, Meagher & Flom LLP
525 University Avenue
Palo Alto, CA 94301
650-470-4500
allen.ruby@skadden.com
jack.dicanio@skadden.com

DAVID SIDOO

By his attorneys,

/s/ Martin G. Weinberg

Martin G. Weinberg, Esq. (BBO # 519480)
Martin G. Weinberg, PC
20 Park Plaza
Suite 1000
Boston, MA 02116
617-227-3700
Fax: 617-338-9538
owlmcb@att.net

/s/ David Z. Chesnoff (Pro Hac Vice)

David Z. Chesnoff, Esq.
Chesnoff & Schonfeld
520 S. 4th Street
Las Vegas, NV 89101
702-384-5563
dzchesnoff@cslawoffice.net

/s/ Richard A. Schonfeld (Pro Hac Vice)

Richard A. Schonfeld
Chesnoff & Schonfeld
520 South Fourth Street

Las Vegas, NV 89101
702-384-5563
rschonfeld@cslawoffice.net

JOHN WILSON

By his attorneys,

/s/ Michael Kendall
Michael Kendall (BBO #544866)
Yakov Malkiel (BBO #689137)
WHITE & CASE LLP
75 State Street
Boston, MA 02109-1814
Tel: (617) 979-9310
michael.kendall@whitecase.com

Andrew E. Tombak (*pro hac vice*)
WHITE & CASE LLP
1221 Avenue of the Americas
New York, NY 10020
Tel: (212) 819-8428
Andrew.tomback@whitecase.com

DR. HOMAYOUN ZADEH

By his attorneys,

/s/ Tracy A. Miner
Tracy A. Miner (BBO # 547137)
Megan A. Siddall (BBO # 568979)
Seth B. Orkand (BBO # 669810)
Miner Orkand Siddall LLP
470 Atlantic Ave, 4th Floor
Boston, MA 02110
Tel.: (617) 273-83 77
tminer@mosllp.com
msiddall@mosllp.com
sorkand@mosllp.com

ROBERT ZANGRILLO

By his attorneys,

/s/ Nicholas Theodorou
Nicholas Theodorou (BBO # 495730)
Foley Hoag LLP

155 Seaport Boulevard
Boston, MA 02210
Tel: (617) 832-1163
ntheodorou@foleyhoag.com

Martin G. Weinberg, Esq. (BBO # 519480)
20 Park Plaza, Suite 1000
Boston, MA 02116
Tel: (617) 227-3700
owlmgw@att.net

Matthew L. Schwartz
Boies Schiller Flexner
55 Hudson Yards, 20th Floor
New York, NY 10001
Tel: (212) 303-3646
mlschwartz@bsflp.com

CERTIFICATE OF SERVICE

I, Eóin P. Beirne, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on May 29, 2019.

/s/ Eóin P. Beirne